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STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



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GENERAL PERMIT FOR THE REMOVAL OF QUALIFYING SMALL DAMS

FEBRUARY 19, 2008

Issued Under Part 301, Inland Lakes and Streams, and Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

BACKGROUND INFORMATION

PURPOSE

Parts 301 and 303 authorize the Michigan Department of Environmental Quality (MDEQ), Land and Water Management Division (LWMD), to define types of regulated activities that would be expected to have only minor impacts and that can, therefore, be reviewed through a simplified permit application process. This general permit (GP) will allow the LWMD to evaluate applications for permits without public noticing, reducing review time and cost of the permit process for applicants proposing minor activities and the cost of administering the program, while protecting aquatic resources.

The purpose of this GP is to support the removal of qualifying small dams less than two feet in height pursuant to Section 30105 of Part 301, with an overall goal of restoring stream habitat in Michigan. Impacts to wetlands regulated under Part 303 that are associated with these restoration activities may also be authorized under this GP, within certain limits.

Please note that this GP does not define projects that will be permitted, but only those that may be considered for a simplified processing. Applications under this GP may be (1) issued, (2) issued with conditions or modifications, or (3) denied. Authorization will be issued only if it is determined that the proposed activity is in accordance with the criteria and requirements of Parts 301 and 303 and other applicable statutes.

GENERAL PERMIT PROCEDURES

A person seeking authorization under this GP must submit a permit application on a form provided by the LWMD and include the required information. The LWMD will review applications for authorization under this GP to determine whether the conditions

and limitations of this GP are met. If it is determined that an application for a specific project meets all the general and specific criteria, written authorization under the GP will be issued to the applicant.

If at any time in the review process it is determined that an application for a specific project does not meet all the general and specific GP criteria, the project should be subjected to public review. If it is determined that a proposed project could, in combination with other projects, result in more than minimal adverse cumulative impacts, the application will be processed as an individual permit application and public noticed. The processing as an individual permit application may require the applicant to provide additional information and an additional fee.

LEGISLATIVE AUTHORITY

The LWMD, after notice and an opportunity for a public hearing, may issue a general GP for activities that are similar in nature, will cause only minimal adverse environmental effects when performed separately, and that will only have minimal cumulative adverse effect on the environment. A GP shall not be valid for more than five years. The LWMD may impose conditions on the removal of a small dam authorized under a GP if the conditions are designed to remove an impairment to the lake or stream, to mitigate the impact of the project, or to otherwise restore or rehabilitate the lake or stream. The MDEQ may also establish a reasonable time when the proposed project is to be completed or terminated.

GENERAL CRITERIA FOR REVIEW

Sections 30106 and 30311 of the NREPA specify the criteria that must be met before a permit authorization may be issued. These general criteria, as well as the specific criteria detailed later in this GP, must be met before the LWMD can issue an authorization under this GP.

NEED FOR OTHER PERMITS

Authorization under this GP does not remove the need for other applicable local, state, or federal permits. Authority granted by this permit does not waive permit requirements under other parts of the NREPA, including Part 91, Soil Erosion and Sedimentation Control; Part 31, Water Resources Protection; or the need to acquire applicable NPDES Dredging Dewatering general permits from the MDEQ's Water Bureau as may be appropriate.

ACTIVITIES THAT MAY BE AUTHORIZED UNDER THIS GENERAL PERMIT

The removal of small dams and associated restoration activities may be authorized under this GP if the proposed small dam removal meets the General Criteria for Review and Limitations and the following specific criteria:

- The height of the dam is less than two feet.
- The impoundment from the dam covers less than two acres.
- The dam does not serve as the first dam upstream from the Great Lakes or their connecting waterways.
- The dam is not serving as a sea lamprey barrier.
- No state or federally listed threatened or endangered species have been identified in the area that will be impacted by the project.
- There are no known areas of contaminated sediments in the area that will be impacted by the project.
- The MDEQ has received written permission for the removal of the dam from all riparian property owners adjacent to the dam's impoundment including public transportation agencies with right-of-ways adjacent to the impoundment or has documented legal right to remove the dam.
- Excavation and fill in wetlands is authorized for purposes of dam removal, stream channel establishment, and bank stabilization only, and must be minimized to the greatest extent possible. Impacts to wetlands from excavation and fill activities are limited to less than one-third of an acre.
- The dam removal is not associated with a federally designated wild and scenic river.
- If a dam removal also requires a permit under the Floodplain Regulatory Authority found in Part 31, it must meet one of the minor categories.
- The dam removal cannot require a permit under Part 353, Sand Dunes Protection and Management, of the NREPA.

Applications for authorization under this GP must include a dam removal plan that includes the following information:

- A description of the upstream and downstream impacts of the dam removal, including impacts to fish and wildlife and recreational uses.
- Dam removal/excavation methods and a schedule and timeline of the proposed impoundment drawdown.
- A description of sediments behind the dam, including a sediment handling (and if necessary, disposal) plan and methods to minimize release of sediments and downstream siltation.
- A stream channel restoration plan, including a planting and stabilization plan for all disturbed areas (e.g., drawdown areas and stream banks).
- A plan view of the area of wetlands to be drained by the dam removal.

GENERAL LIMITATIONS AND CONDITIONS

The following general limitations and conditions will also apply to all authorizations issued under this GP.

- A. Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of an authorization under this permit.
- B. The permittee, in exercising the authority granted by an authorization under this permit, shall not cause unlawful pollution as defined by Part 31.
- C. An authorization under this permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.
- D. All work shall be completed in accordance with the plans and the specifications submitted with the application and/or plans and specifications attached.
- E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved.
- F. It is made a requirement of an authorization under this permit that the permittee give notice to public utilities in accordance with Act 53 of the Public Acts of 1974 and comply with each of the requirements of that act.
- G. An authorization under this permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits or complying with other state statutes.
- H. An authorization under this permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect their rights.
- I. Permittee shall notify the MDEQ within one week after the completion of the activity authorized under this permit.
- J. This permit shall not be assigned or transferred without the written approval of the MDEQ.
- K. Failure to comply with conditions of an authorization under this permit may subject the permittee to revocation of the authorization and criminal and/or civil action as cited by the specific state act, federal act and/or rule under which this permit is granted.

EXPIRATION DATE

This GP expires on February 19, 2012, unless revoked or modified before that date.